

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

PEPO HERD EL, a/k/a,
PEPO WAMCHAWI HERD,

Defendant

CRIMINAL No. 21-CR-10045-ADB

**GOVERNMENT'S STATUS REPORT AND MOTION TO
EXCLUDE TIME FROM THE RUNNING OF THE SPEEDY TRIAL CLOCK**

On July 28, 2022, the parties provided this Court with a status update. At that time, neither the Court nor the parties had received a report detailing the results of the defendant's evaluation and treatment at the Federal Correctional Institution in Butner, North Carolina. The government's attorney stated that the defendant's health care provider had previously asserted that the defendant was not competent to proceed to trial. At the parties' request, the Court scheduled the matter for another status appearance on September 12, 2022.

Later on July 28, 2022, the government received an electronic message containing the report and recommendation of the defendant's mental health care provider. That report documented her opinion that the defendant was not competent to proceed to trial. It further asserted that a substantial probability exists that the defendant's competency could be restored with appropriate antipsychotic medication, which the defendant has so far refused to accept. The report stated that the health care provider did not believe the defendant was eligible for medication under *Washington v. Harper*, 494 U.S. 210 (1990) but that he might be eligible under *Sell v. United States*, 539 U.S. 166 (2003). The government's message indicated that this

report would also be sent to the Court's chambers and to defense counsel.

Because Judge Dein found that the defendant not competent to stand trial and because this Court adopted that finding, the government hereby moves that the time between July 28, 2022, and September 12, 2022, be excluded from the tolling of the speedy trial clock. 18 U.S.C. § 3161(h)(4).

Respectfully submitted,

RACHAEL S. ROLLINS
United States Attorney

By: /s/ Amanda Beck
AMANDA BECK
BENJAMIN TOLKOFF
Assistant United States Attorneys
617-748-3683

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Amanda Beck
AMANDA BECK
Assistant United States Attorney

Date: August 1, 2022